

karamatsu3-Leanne

From: Denise Kaehu [DKaehu@HETInc.com]
Sent: Friday, April 03, 2009 1:31 PM
To: JUDtestimony
Subject: SB 1349, SD1 RELATING TO NOTARIES PUBLIC.doc

LATE TESTIMONY

APRIL 2, 2009

TO: COMMITTEE ON JUDICIARY
Representative Jon Riki Karamatsu, Chair
Representative Ken Ito, Vice Chair

COMMITTEE ON COMMERCE AND CONSUMER AFFAIRS
Representative Robert N. Herkes, Chair
Representative Glenn Wakai, Vice Chair

FROM: Denise M. Kaehu
Hawaii Escrow & Title, Inc.

DATE: Friday, April 3, 2009
Conference Room 325
3:00 p.m.

RE: **SB 1349, SD1, RELATING TO NOTARIES PUBLIC**

Chairs Karamatsu and Herkes, Vice Chairs and Members of the Committee:

Hawaii Escrow & Title, Inc. is writing in support of Senate Bill 1349, SD1, Relating to Notaries Public. This bill will help facilitate and accommodate the processing of our escrow and title real property transactions without causing undue delays to the transactions, but also allowing for the protective covenants that need to be addressed to deter fraudulent activities. In addition to providing additional precautionary practices it allows escrow to be able perform their duties in a timely fashion and prevents undue or unnecessary delays of the recordation at the Bureau of Conveyances.

Based on statements made in prior testimonies and the amended version of this bill we strongly advocate its passage.

We respectfully ask that you pass this measure. Thank you for your consideration in this matter.

Respectively submitted,

Denise M. Kaehu

President, Hawaii Escrow Association

MCCORRISTON MILLER MUKAI MACKINNON LLP
ATTORNEYS AT LAW

April 3, 2009

Honorable Jon Riki Karamatsu, Chair
Honorable Ken Ito, Vice Chair
Committee on Judiciary

Honorable Robert N. Herkes, Chair
Honorable Glenn Wakai, Vice Chair
Committee on Consumer Protection and Commerce

House of Representatives
State Capitol
415 South King Street
Honolulu, Hawai'i 96813

Re: S.B. No. 1349, S.D. 1, RELATING TO NOTARIES PUBLIC.

Dear Chairs Karamatsu and Herkes, Vice-Chairs Ito and Wakai, and Committee Members:

I would like to express my support for S.B. No. 1349, S.D.1, relating to notaries public, which has been jointly referred to your Committees on Judiciary and Consumer Protection and Commerce, and which is scheduled to be heard on April 3, 2009.

S.B. No. 1349, S.D.1 requires a notary public to include on the notary public's stamp or seal the notary public's commission number, clarifies which types of changes may be made to a document after notarization; and clarifies how a notarized document may be altered by ratification of all parties to the document. The amendments to Act 175 of the 2008 Session Laws of Hawai'i will help to facilitate real property transactions in the State.

Thank you for your consideration of the foregoing.

Very truly yours,

MCCORRISTON MILLER MUKAI MACKINNON LLP



Peter J. Hamasaki



FIRST HAWAII TITLE CORPORATION

City Financial Tower ♦ 201 Merchant St. Suite 2000 ♦ Honolulu, Hawaii 96813
Telephone: (808) 521-3411 ♦ Facsimile: (808) 521-8848

April 3, 2009

**WRITTEN TESTIMONY ONLY on the following measure:
SB 1349, SD1, RELATING TO NOTARIES PUBLIC**

Before the: HOUSE COMMITTEE ON THE JUDICIARY AND THE COMMITTEE
ON CONSUMER PROTECTION & COMMERCE

Hearing Date: April 3, 2009 – 3:00 PM

Place: State Capitol, Conference Room 325

Testifier: FIRST HAWAII TITLE CORPORATION

Dear Chairs Herkes and Karamatsu, Vice Chairs Wakai and Ito, and members of the House Committees:

I am writing on behalf of First Hawaii Title Corporation, as its Title Division Administrator, to offer testimony in support of SB 1349, SD1 and to urge that you pass this measure. This measure includes an important provision that gives a title company the flexibility to make corrections or changes to documents in a real estate transaction documents after they have been signed and notarized with the ratification of the parties involved.

The existing law enacted as Act 175 last year, does not permit changes or corrections to the documents once signed and notarized. Without the flexibility afforded by this new measure, we are unable to make changes or corrections to these documents to make them acceptable for recordation at the Bureau of Conveyances or to conform to the intent of the parties' transaction. Thus, title companies would have no recourse but to delay recording and return the documents to the parties to have the necessary changes made and have the documents re-executed. As is common, some of the parties may not be residing in Hawaii or they may be unavailable at the time that the request to re-execute and notarize the documents with the changes or corrections are transmitted. The resulting delay in recording can be costly or cause hardship for the parties. For example, a buyer may find himself without a place to live because he cannot move in to his new house if the lease on his previous home has been terminated; a seller may need to pay penalty and/or interest on his mortgage that he was expecting to payoff before the first of the month; or a buyer may find that his favorable mortgage interest rate lock has expired.

Testimony to the House Committees on the Judiciary
and Consumer Protection & Commerce
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With modern technology, it would be a simple matter to get the changes or corrections ratified by the parties via email and thereby making it possible to meet the recording deadline and satisfy the primary intent of last years' Act 175, which was to prevent fraud.

First Hawaii Title is an independent escrow and title company handling hundreds of real estate closings a month. When transaction documents are signed and notarized and are ready for recordation at the Bureau of Conveyances, our standard procedure is that they first go through a review process by our recording staff. This review process involves basically two things: 1) reviewing the documents for recordability so that they will be acceptable for recordation in the Bureau of Conveyances; and 2) reviewing the documents for insurability so that the transaction will satisfy the requirements for the issuance of a title insurance policy. Hence, there is an additional layer of scrutiny when documents are presented to the title companies for recordation which occurs during the review for insurability. Since many of the real estate transactions we close are in connection with the issuance of a title insurance policy, our staff must scrutinize the documents for anything out of the ordinary such as pages which have been inserted but where the font type is different or discrepancies in signatures. Therefore, the purpose of Act 175, to prevent fraud on the consumer, is being exercised by the title companies in the course of doing business. The amendment to Act 175 would not result in lesser protection to the consumer. While this process is not a cure-all because fraud is often difficult to detect, this review process does help to minimize it to a limited extent.

We respectfully ask that your Committees pass SB 1349, SD1.

Thank you for this opportunity to provide testimony.

FIRST HAWAII TITLE CORPORATION

A handwritten signature in black ink, appearing to read 'Allen G. Yanos', written over a horizontal line.

Allen G. Yanos
Title Division Administrator